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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,854	02/20/2004	Damon Debenedictis	65725-0043	7640
23552 7590 02/06/2007 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER CHUNG TRANS, XUONG MY	
			ART UNIT 2833	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/783,854	Applicant(s) DEBENEDICTIS ET AL.	
	Examiner Xuong M. Chung-Trans	Art Unit 2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/22/06</u> . | 6) <input type="checkbox"/> Other: _____ |

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 22, 2006 has been entered. Claims 48- 67 are pending in this application.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 48 -67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meckley et al. (USPN 6,267,628) in view of Fair et al. (USPN 6,250,964).

As per claims 48-49, Meckley discloses a jack assembly (100) substantially as claimed, comprising: a frame (102) including an upper row of jacks (110) and a lower row of jacks (112), each jack including a port for receiving a plug and spring contacts (24, 26, 28, 130) for making electrical contact with the plug, each of the jacks in the upper row being offset horizontally with respect to an adjacent jack in the lower row, the frame including a shield structure (134) for minimizing transmission of electrical signal away from its intended path, the shield structure positioned between the upper row of jacks and the lower row of jacks (see fig. 14). Meckley does not explicitly disclose a vertically offset lower row of jacks and each jack in the upper row

being horizontally offset with respect to an adjacent jack in the lower row at least a distance of approximately a length of a jack. Meckley does disclose a multi-level multi-port jack housing having receptacles in at least two levels which the receptacle are either in line with one another (i.e., in vertical columns) or offset from one another (col. 14, lines 59-64). Further, Fair discloses the use of such a bi-level offset multi-port (figs. 1a-1c and col. 4, lines 10-18). Moreover, variations in the distance of approximately a length of a jack would have been obvious minor adjustments without patentable significance. See In re Aller, 105 USPQ 233 (CCPA 1955) (Where general conditions of the claim are disclosed in the prior art, it is not inventive to discover optimal or workable ranges by routine experimentation). Therefore, one having an ordinary skill in the art would be motivated to change the offset distances between the jacks in order to minimize the crosstalk as well as reducing the spacing of the jack.

As per claim 50, Meckley discloses that the jacks include RJ-45 jacks (col. 14, lines 59-60).

As per claim 51, Meckley inherently discloses that the shield structure includes conductive material, and Fair also disclose the shield structure include conductive material (col. 7, line 66).

As per claim 52, Meckley does not disclose that the shield structure includes carbon-filled material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize any suitable materials that prevent crosstalk and signal degradation, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Furthermore, applicant has not disclosed that the use of

carbon-filled material solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any material.

As per claim 53, Meckley discloses the frame (102) is molded plastic.

As per claim 54, Meckley does not disclose that the frame includes two rows of twelve jacks each. Fair, however, discloses that any number of jacks can be formed in each row. Therefore, it would have been obvious to one of an ordinary skill in the art at the time the invention was made to include the teaching of Fair in the Meckley invention in order to produce the claimed invention because Fair teaches or suggest that any number of jack can be formed in each row.

As per claims 55-60, these claims recite subject matter substantially similar to claims 48-54; therefore, they are rejected under the similar rationale.

As per claims 61-67, these claims differ from claims 48-54 in that they recite the plurality of jacks define subsets of adjacent jack pairs, the jacks of each adjacent jack pair being offset relative to each other in two directions. It is obvious to one having an ordinary skill in the art that any offset configuration of the adjacent jack pairs can be employed in order to effectively reduce the crosstalk.

4. Applicant's arguments filed on March 17, 2006 have been fully considered but they are not persuasive.

Applicant argues that neither Meckley nor Fair teaches or suggests each jack in the upper row is horizontally offset with respect to an adjacent jack in the lower row at least a distance of approximately a length of a jack. The examiner respectfully disagrees. Meckley specifically

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discloses a multi-level multi-port jack housing having jacks wherein the jacks are offset from one another (col. 14, lines 62-64) and suggests that the jacks are desirable to space or distance from one another as much as possible to reduce crosstalk between the jacks (col. 3, lines 56-61).

Further, Meckley specifically refers to Fair reference to disclose a variation of offset configurations (col. 3, lines 48-52 of Meckley). Fair discloses in Figs. 1A and 1B and column 4, lines 32-36 that each jack in the upper row is horizontally offset with respect to an adjacent jack in the lower row.

Applicant further argues that there is no motivation or suggestion in the art to increase the offset distances between the adjacent jacks of Meckley or Fair. As pointed out in the previously paragraph, Meckley does clearly suggest that the jacks are desirable to space or distance from one another as much as possible to reduce crosstalk between them. And further, applicant argues that the examiner's conclusion of obviousness is based on improper hindsight reasoning. It is pointed out that any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper. In re McLaughlin 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971).

Furthermore, it appears that applicant suggests the examiner is applying an "obvious to try" rationale in support of an obviousness rejection. It is pointed out that it is Meckley suggesting such an "obvious to try" to separate each of the jacks from one to the others at a desired distance to obtain an optimal crosstalk reduction, and the court in Ball Corp. (Fed. Cir. 1991) held "obvious to try" is proper if the reference does disclose or suggest such a motivation.

5. Applicant's arguments filed on November 22, 2006 have been fully considered but they are not persuasive.

Applicant agreed that it is specifically stated in Meckley that it is desirable to space or distance the contact or terminal members from one another as much as possible, but argued that column 2, lines 54-58 of Meckley and column 1, lines 53-57 of Fair specifically stated it has become increasingly necessary to increase the number of modular connectors ports which can be mounted in a given area. It is pointed out the text as applicant referred to is a general discussion in the background of Meckley and fair inventions. It is further pointed out that the elimination of crosstalk must not compromise even though the intention to increase number of modular connector ports mounted in a given area is considered.

6. Applicant's response shall put this application in final disposition.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xuong M. Chung-Trans whose telephone number is (571) 272-2002. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571) 272-2800 extension 33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Xuong M. Chung-Trans', followed by a long horizontal line.

Xuong M. Chung-Trans
Patent Examiner
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